



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,747	07/21/2003	Paul J. Hepworth	3271.2.14	7525

21552 7590 11/01/2006

MADSON & AUSTIN  
GATEWAY TOWER WEST  
SUITE 900  
15 WEST SOUTH TEMPLE  
SALT LAKE CITY, UT 84101

EXAMINER

CAPUTO, LISA M

ART UNIT PAPER NUMBER

2876

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/623,747

Applicant(s)

HEPWORTH ET AL.

Examiner

Lisa M. Caputo

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 1-19,21-40,42-61 and 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20,41 and 62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5 October 2006 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 20, 41, and 62 are rejected under 35 U.S.C. 102(e) as being anticipated by Brusky et al. (U.S. Patent No. 6,604,157, from hereinafter "Brusky").

Brusky teaches a system and method for allowing a user to select and scan from a peripheral to a target application on a host system. Regarding claims 20, Brusky teaches a method for interfacing an object identifier reader to an application in a computing device (host 12), comprising:

receiving object identifier data (data set; imported data from other documents or items) from the object identifier reader (scanner 44) through a first communication port (parallel port 40 of peripheral 14 connected to scanner 44 interfaces with parallel port 42 of host 12), the object identifier data comprising information and formatting characters, wherein the first communication port comprises hardware which places the object identifier reader in electronic communication with the computing device via communication link 16 (see col 3, lines 17-26);

identifying the information in the object identifier data (data set is scanned and transferred to memory);

identifying an application (applications 54, 56, 58 on host 12) to receive the information, wherein the application is also running on the computing device;

determining that the application is not configured to receive the information through the first communication port (i.e. preset parameters dictate if the application is able to receive the data set) ;

determining that the application is configured to receive the information through a second communication port by identifying an association between the application and the second communication port (processor 50 of the host comprises data manipulation techniques (e.g. OCR) in order for the application to receive the data, hence the OCR technique is identifying an association between the application and port and discerning if it should be accepted);

and sending the information to the application on the computing device through the second communication port (the scanned information is passed to the target

Art Unit: 2876

application in the best form for use in that application) (see Figure 2, col 3, lines 5-60, col 5, lines 1-65, claim 22).

It should be mentioned here that although Brusky teaches the existence of the interface 24 in the host, the present invention permits a user to transfer data scanned at peripheral 14 into the desired application 54, 56, 58 on host 12 without utilizing host interface 24. It is noted that the specification of the present application defines a communication interface as "consisting of either hardware, software, or a combination of both" in order to interface the object identifier reader to the computing device and its applications (see specification, page 6, paragraph 36). Hence, examiner interprets the second interface as the hardware/software combination of the processor 50 which performs data manipulation on the data set in order to ready it for transfer to the application since this second interface is allowing the data set that was scanned by the scanner to be put into appropriate form to be used by the computing device and its applications, therefore creating an association between the application and the second communication port.

Regarding claim 41, Brusky teaches a system for interfacing an object identifier reader to an application comprising the object identifier reader (scanner 44) and a computing device (host 12) comprising a processor (processor 50), a memory (memory 52) which stores applications in electronic communication with the processor, a first communication port (parallel port 40 of peripheral 14 connected to scanner 44 interfaces with parallel port 42 of host 12), in electronic communication with the object identifier reader, wherein the first communication port comprises hardware which places

the object identifier reader in electronic communication with the computing device via communication link 16, a second communication port (processor 50 of the host comprises data manipulation techniques (e.g. OCR) in order for the application to receive the data) in electronic communication with the application, and a software module (instructions within memory) stored in the memory being configured to implement a method for a computing device as described above in reference to claim 20 (see Figure 2, col 3, lines 5-60, col 5, lines 1-65). In addition, regarding claim 62, Brusky teaches that a computer readable medium for storing program data exists within the host device, wherein the program data comprises executable instructions for implementing a method for a computing device as described above in reference to claim 20 (see Figure 2, col 3, lines 5-60, col 5, lines 1-65).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 20, 41, and 62 have been considered but are moot in view of the new ground(s) of rejection.
4. Examiner has used the same prior art of Brusky, but has used a different interpretation. For example, examiner appreciates applicant's argument on page 18 that the interface 34 of Brusky is not a proper communication port, and respectfully submits that the first communication port is embodied as the parallel port 40 of the peripheral 14 which interfaces the scanner 44 to the host 12.

Examiner would like to respond to some of the arguments which still can be considered pertinent. In response to the applicant's arguments that the preset parameters don't relate to the communication interfaces, examiner respectfully submits

Art Unit: 2876

that the preset parameters exist to be able to determine if the interface (port) configuration is correct and hence, are useable for the system. It is respectfully submitted that the format is an important part of the data, as is recited in claim 20 of the instant application, and hence the format being determined via the communication ports as taught by Brusky is relevant.

In response to applicant's argument that the second communication port is not adequately taught by the processor 50, examiner respectfully disagrees and submits that the specification of the present application defines a communication interface as "consisting of either hardware, software, or a combination of both" in order to interface the object identifier reader to the computing device and its applications (see specification, page 6, paragraph 36). Hence, examiner interprets the second interface as the hardware/software combination of the processor 50 which performs data manipulation on the data set in order to ready it for transfer to the application since this second interface is allowing the data set that was scanned by the scanner to be put into appropriate form to be used by the computing device and its applications, therefore creating an association between the application and the second communication port.

### ***Conclusion***

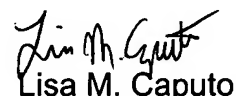
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Lisa M. Caputo*** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (571) 273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [***lisa.caputo@uspto.gov***].

Art Unit: 2876

*All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lisa M. Caputo

AU 2876  
October 28, 2006